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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

No. 1013

LOUIS J. SCHWARTZ,

Petitioner,

v.

RUBENIA TANNER,

Respondent.

REHEARING FOR PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

RICHARD D. HANEY,
900 Fountain Square Bldg.,
Cincinnati 2, Ohio,
Counsel for Petitioner.

THE JOHNSON & HARDIN CO., LAW PRINTERS
CINCINNATI, OHIO

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REHEARING FOR PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

Petitioner Louis J. Schwartz files this Petition for Rehearing to apprise this honorable Court of substantial facts and circumstances not heretofore brought to its attention which were not known by Petitioner at the time he filed his original Petition.

REASON FOR GRANTING THE WRIT

The writ in favor of the Petitioner should be granted because the chief testimony of the Respondent was untrue and the supporting testimony of Respondent's sister was also untrue and incompetent.

The Respondent testified at the trial of this cause (R. 16) that she had no dates with any men other than the Peti-

tioner from the time she came to Cincinnati in early July through the middle of October of the year 1960. This is untrue. (See Appendix A.)

The Respondent's sister Mrs. Ruby Dotzawer testified (R. 105) that the Respondent had dates with no other men than the Respondent during the period from July to October of 1960. This was also, obviously untrue and the witness was incompetent as well. (Appendix A.)

It is the position of the Petitioner that the Respondent was pregnant before he ever knew her. (See second paragraph, page 9 Petitioner's original Petition.

The Petitioner was contacted with malice aforethought, namely being accused of being the father of an already conceived child.

Respondent was at least six months pregnant with another illegitimate child when she testified in the original trial of this matter. (See Appendix B.) It is believed that a certain man with whom Respondent admitted being intimate (see page 20 Transcript Preliminary Hearing) is in fact the father of both the Respondent's illegitimate children.

CONCLUSION

Petitioner's career and future life is at stake, he has been adjudicated the father of a child through perjured testimony. The Record is replete with prejudicial error. For all these reasons Petitioner should have his cause reviewed and he should be granted a Writ of Certiorari as prayed for.

Respectfully submitted,

RICHARD D. HANEY,
900 Fountain Square Bldg.,
Cincinnati 2, Ohio,
Attorney for Respondent.

APPENDIX A

STATE OF OHIO }
COUNTY OF HAMILTON } ss.

William F. Scanlon, being first duly sworn, says that he is an Attorney at Law; that as such Attorney he originally represented Rubenia Tanner in her claim against Louis J. Schwartz, L.J.S.; that he withdrew as her attorney because he felt there was no merit to her claim; that he also represented her brother-in-law Orville Dotzawer; that said Rubenia Tanner had social dates with other men during the period of conception including Max David, of Cleveland, Ohio; that her sister Mrs. Dotzawer, a witness in the case, had a history of mental disturbance and was confined to the psychiatric ward of Good Samaritan Hospital in June, 1963.

WILLIAM F. SCANLON

Sworn to before me and subscribed in my presence this 27th day of May 1965.

RICHARD D. HANEY,
Notary Public,
State of Ohio.

APPENDIX B

OHIO DEPARTMENT OF HEALTH

Division of Vital Statistics

CERTIFICATE OF LIVE BIRTH

Registrar's No. 63-12595
Birth No. 134—

Reg. Dist. No. 3101

1. PLACE OF BIRTH
   a. COUNTY
      Hamilton
   b. CITY, VILLAGE, OR LOCATION
      Cincinnati
   c. NAME OF HOSPITAL OR INSTITUTION
      Catherine Booth Hospital
   d. IS PLACE OF BIRTH INSIDE CITY LIMITS?
      Yes X No
2. USUAL RESIDENCE OF MOTHER
   a. STATE Ohio b. COUNTY Hamilton
   c. CITY, VILLAGE, OR LOCATION
      Cincinnati
   d. STREET ADDRESS
      9888 Norcrest Dr.
   e. IS RESIDENCE INSIDE CITY LIMITS?
      Yes X No
   f. IS RESIDENCE ON A FARM?
      Yes No X
3. NAME (TYPE OR PRINT)
   Michael Brian Tanner
4. SEX
   Male

5a. THIS BIRTH
   Single X Twin Triplet

* * * * *

Appendix B

6. DATE OF BIRTH
8/29/63

* * * * *

12. MAIDEN NAME
Rubenia Tanner
13. COLOR OR RACE
White
14. AGE (At time of this birth)
32 years
15. BIRTHPLACE (State or foreign country)
Tennessee
16. PREVIOUS DELIVERIES TO MOTHER (Do NOT include this birth)
    a. How many OTHER children are now living?
    2
    b. How many OTHER children were born alive but are now dead?
    0
    c. How many fetal deaths (fetuses born dead at ANY time after conception?)
    0
17. INFORMANT'S NAME OR SIGNATURE
Rubenia Tanner
18. MOTHER'S MAILING ADDRESS
3595 Washington Ave., Cinti, Ohio
19. DATE SEROLOGIC TEST FOR SYPHILIS
8-29-63

I hereby certify that this child was born alive on the date stated above.

19a. SIGNATURE
/s/ STEPHEN HORNSTEIN
19b. ATTENDANT AT BIRTH
M. D. X D. O. MIDWIFE
19c. ADDRESS
7719 Reading Rd., Cinti, Ohio
19d. DATE SIGNED
8/29/63

20. DATE RECD. BY LOCAL REG.
SEP 5 1963
21. REGISTRAR'S SIGNATURE
/s/ MARY ANN BERENS

* * * * *

Appendix B

I hereby certify that this Petition for Rehearing is filed for the sole purpose of bringing additional facts before the Supreme Court of the United States and is for no purpose of delay.

RICHARD D. HANEY
Attorney for Petitioner